

ENTERED

February 12, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISIONJULIETA GARIBAY, *et al*,

Plaintiffs,

VS.

DAVID WHITLEY, *et al*,

Defendants.

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CIVIL ACTION NO. 2:19-CV-040

ORDER

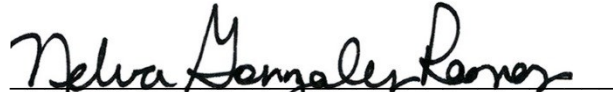
This action, filed on February 2, 2019, is a challenge to the Texas Secretary of State's use of Election Advisory No. 2019-02, "Use of Non-U.S. Citizen Data obtained from the Department of Public Safety" (dated January 25, 2019). The Advisory contained a list of registered voters whose citizenship has been questioned. Plaintiffs seek to certify a class of all United States citizens whose names appeared on that list in order to challenge its use to investigate and cancel voter registrations. Additional organizational Plaintiffs join the challenge on behalf of the persons for whom they advocate and programs they pursue in the effort to promote the right to vote.

On January 29, 2019, four days prior to the filing of this action, a different set of plaintiffs filed a challenge to the Advisory in *Texas League of United Latin American Citizens v. David Whitley, in his Official Capacity as Texas Secretary of State*, Civil Action No. 5:19-cv-74 in the Western District of Texas. That case is pending before Judge Fred Biery. Plaintiffs in that case also seek to certify a class of all United States citizens whose names appear on the list accompanying the Advisory in order to challenge

its use for investigating and canceling voter registrations. Likewise, the Western District case includes organizational plaintiffs representing their constituents and programs.

In their “Motion to Dismiss or in the Alternative Stay Litigation or Transfer Venue,” the Defendants here have raised the first-to-file rule, arguing that this Court should stay, transfer, or dismiss this action in deference to the previously-filed Western District case. D.E. 10, pp. 23-25. The Court has determined that the applicability of the first-to-file rule should be determined before any other issue in this case. The Court deems the briefing in Defendants’ motion to dismiss (D.E. 10, pp. 23-25) as the opening brief. Plaintiffs are ORDERED to file their response to that portion, and that portion only, on or before February 21, 2019.

ORDERED this 12th day of February, 2019.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE